

SITE DEVELOPMENT PERMIT

FILE NO.	H22-006
LOCATION OF PROPERTY	100 Headquarters Drive
GENERAL PLAN DESIGNATION	Industrial Park
ZONING DISTRICT	IP Industrial Park
PROPOSED USE	Site Development Permit to allow the installation of a 30'-6" tall retractable rooftop antenna with a 5-foot-wide dish extending above the existing roof screen of an office building on an approximately 1.0-gross acre site
ENVIRONMENTAL STATUS	Exempt pursuant to CEQA Guidelines Section 15303 for New Construction or Conversion of Small Structures
OWNER/ADDRESS	Mirabaud RE District 237, LLC Azora Exan Management, LLC 1111 Brickell Avenue, Suite 2175 Miami, FL 33131
APPLICANT/ADDRESS	Jason Dolan Raytheon Technologies 100 Headquarters Drive San Jose, CA 95134

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. **Project Description.** This is a Site Development Permit to allow the installation of a 30'-6" tall retractable rooftop antenna with a 5-foot-wide dish mounted on a 27'-8" tall pole extending above the existing roof screen of an office building on an approximately 1.0-gross acre site. The rooftop antenna has an overall height of 38 feet and is partially screened at its base by an existing 7'-6" tall building parapet. The antenna pole structure is hoisted to an upright position ten times a year, is left in the upright position for up to five days and is pulled down during the night. The structure may occasionally be left in the upright position throughout the night for testing purposes. The antenna is retracted using a manual crank pulley system which is attached to the base of the antenna. The antenna will be painted gray to match the building colors. Associated rooftop mechanical equipment and minor exterior changes were approved with Permit Adjustment File No. AD20-689.

2. **Site Description and Surrounding Uses.** The subject site is located on the south side of Highway 237, at the west corner of Headquarters Drive and Rose Orchard Way, at 100 Headquarters Drive. The site is developed with an existing 44,964-square foot two-story office building and a surface parking lot, approved with Site Development Permit File No. H96-089. The site is bounded by research and development office buildings to the south, north, east and west, beyond Headquarters Drive, and Highway 237 to the north across Holger Way.
3. **General Plan Conformance.** The Envision San José 2040 General Plan/Transportation Diagram Land Use designation of the project site is Industrial Park. This designation is intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing and offices. This designation is differentiated from the Light Industrial and Heavy Industrial designations in that Industrial Park uses are limited to those for which the functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls. *An existing office building is the primary use on-site. The rooftop retractable antenna structure addition will be ancillary to the primary office use, will be operated for testing purposes in research and development of technology, consistent with the General Plan land use designation of Industrial Park.*
4. **Zoning Consistency.** The subject site is located in the Industrial Park Zoning District.
 - a. *Height*

The maximum allowable height of the building shall not exceed 50 feet in the Industrial Park Zoning District; however, the project site is in the portion of North San Jose Development Policy Area which allows a maximum height of 120 feet per Section Code 20.85.020(e). *The building is 45 feet tall. With the additional 38-foot height of the antenna structure, the overall height will be 83 feet, which will be within the allowable maximum height of 120 feet.*
 - b. *Setbacks*

The Industrial Park Zoning District requires a front setback of minimum 15 feet for buildings and parking; a zero-side setback and a zero-rear setback from property lines shared with industrial and commercial zoned districts. *There are no changes proposed to the existing building setbacks or building footprint for the existing office building.*
 - c. *Parking*

There are no changes proposed to the building square footage of the existing office building or to the parking layout on site, and there are not any additional parking requirements for an ancillary antenna structure. The parking for research and development office building is calculated at one space per 350 square feet of net floor area. The existing 44,964-square foot R&D office building requires 110 parking spaces which will be accommodated within the 198 surface parking spaces available on site.
5. **Environmental Review.** Under the provisions of Section 15303 for New Construction or Conversion of Small Structures of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. This project qualifies for this exemption in that the installation of a new 38-foot tall retractable rooftop

antenna with a 5-foot-wide dish extending above the existing roof screen of an existing office building is considered a small structure which will not involve noise, vibration or use of hazardous substances to negatively impact the surroundings. The use of the rooftop retractable antenna with dish is temporary in nature and is ancillary to a research and development office use occupying the existing building.

FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, with respect to the Site Development Permit findings (Section 20.100.630), that:

1. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and Area Development Policies.

Analysis: As described above, the project is consistent with the Envision San José 2040 General Plan/Transportation Diagram Land Use designation of Industrial Park. The project is located in the North San Jose Development Policy Area. However, since the project does not involve an increase in building square footage or an intensification of a use that results in substantial vehicular trips, the project is not subject to any applicable elements of this policy.

2. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San Jose Municipal Code applicable to the project.

Analysis: The proposed project conforms to the development regulations established for the IP Industrial Park Zoning District in that the project does not involve any changes to existing setbacks and parking. The project conforms to the 120-foot maximum height allowance per Section 20.85.020(e) of the Zoning Ordinance, as discussed above.

3. The Site Development Permit, as approved, is consistent with applicable City Council Policies, or counterbalancing considerations justify the inconsistency.

Analysis: The project has been noticed for public hearing to a radius of 500 feet, consistent with City Council Policy 6-30: Public Outreach. There are not any other applicable City Council policies for the installation of the rooftop antenna.

4. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: The project proposes a new 38-foot-tall retractable antenna with 5-foot-wide dish which will be installed over the rooftop of an office building for testing purposes. The rooftop antenna pole and dish will be set back, approximately 33 feet from the western edge of the building and 38 feet from the southern edge of the building. The structure will be painted in gray colors to match the existing building colors, to be aesthetically harmonious and mutually compatible. The proposed antenna with dish will be hoisted in an upright position for only ten times a year and will be stored in a horizontal position below the existing parapet when not in use, to be mutually compatible on site.

5. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: The proposed rooftop antenna with dish will be oriented towards Headquarters Drive and will be approximately 30.5 feet above the 7.5-foot-high roof screen of the office building when hoisted to upright position. The antenna will be in upright position for only ten times a year, which is temporary in nature, and will remain compatible with site's immediate surroundings which consist of research and development office uses. The proposed temporary use of the antenna will maintain the appearance of the site as it will remain in an upright position for five days during the ten times it is hoisted in an upright position and will therefore be aesthetically harmonious to the character of the neighborhood.

6. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties in that the proposed project involves installation of a rooftop retractable antenna. The structure will be up ten times a year and will not cause noise or vibration or any other unacceptable negative impacts to the surrounding neighborhood.

7. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: There are not any new site improvements or landscaping proposed and the existing trees and landscaping are sufficient to maintain the appearance of the site.

8. Traffic access, pedestrian access and parking are adequate.

Analysis: There will not be any new traffic or parking impacts, as the project does not involve any new building square footage or intensification of the existing research and development use.

In accordance with the findings set forth above, a **Site Development Permit** for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit Amendment within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and

- b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four (4) years from and after the date of issuance hereof by the Director of Planning if within such time period, the proposed use of the site or the construction of buildings has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Site Development Permit shall be deemed acceptance of all conditions specified in this Permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San Jose Municipal Code requires that all land development approvals and applications for such approvals in the City of San Jose shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San Jose-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San Jose-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
5. **Conformance to Plans.** The development of the site shall conform to the approved Site Development Permit plans titled, "Raytheon Technologies, 100 Headquarters Drive, San Jose, CA 95134" date stamp received March 31, 2022, on file with the Department of Planning, Building and Code Enforcement, and to the San Jose Building Code with the exception of any subsequently approved changes.
6. **Retractable Antenna Structure.** This permit allows the installation of a retractable rooftop pole structure, including a 5-foot wide dish antenna, with overall height of 38 feet. The antenna structure is allowed to be in an upright position up to ten times a calendar year and can be left in the upright position for up to five days per occurrence. The structure may be left in the upright position throughout the night for testing purposes only. The permittee shall maintain an annual log of occurrences in which the structure is in an upright position. The antenna shall be painted gray or similar neutral color to match the color of the existing building.

7. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
8. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
9. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
10. **Trash.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
11. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
12. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
13. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
14. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Sign Permit Adjustment.
15. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
16. **Lighting.** No on-site lighting is approved with this permit.
17. **Generators.** This permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators or mechanical equipment shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
18. **Tree Removals.** No tree removals are included with this permit. All trees larger than 38 inches in circumference, at a height of 54 inches above the natural grade slope, shall require a Tree Removal Permit issued by the Director of Planning. Existing tree canopies shall be protected during construction.
19. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit for a new building (excluding façade improvements to the existing buildings), the following requirements must be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This permit file number, H22-006, shall be printed on all construction plans submitted to the Building Division.
 - b. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any Building Permit issuance, Building Permit plans shall conform to the approved Planning development permits and applicable conditions.
20. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
21. **Fire Department Clearance for Issuing Permits.** The Fire Department's review was limited to verifying compliance of the project to Chapter 5, Appendix BB, Appendix C, and Appendix D of the 2016 California Fire Code (CFC) with City of San Jose Amendments (SJFC). Compliance with all other applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.
22. **Revocation, Suspension, Modification.** This Site Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San Jose Municipal Code it finds: \
- a. A violation of any conditions of the Site Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

APPROVED and issued on this 27th day of April 2022.

Christopher Burton, Director
Planning, Building, and Code Enforcement

Deputy
Robert Manford